

12 Debt Management

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Chapter 12 Exhibit

12-1 Field Office Responsibilities

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Debt Management

What is Debt Management?

Debt management refers to managing outstanding debts owed to APHIS. The key to successfully managing debts is to:

- ◆ Promptly record, in a centralized book (system) of record, all amounts due to us after we have performed services or provided goods;
- ◆ Quickly collect all the money due to us;
- ◆ Follow up quickly, forcefully, and persistently when debts become delinquent; and
- ◆ Accurately report on the status of our Agency's receivables and/or collections to the appropriate internal and external people.

This chapter describes the policies and procedures that APHIS will follow to manage our debts properly. For the most part, APHIS policy closely follows the policies outlined in the authorities described in the next section.

Basis for Agency Policies and Procedures

APHIS' debt management policies and procedures are based on the Debt Collection Improvement Act of 1996 (DCIA), the Debt Collection Act of 1982, 31 U.S. Code, and 4 CFR, Parts 101-105.

The DCIA is the most recent and most aggressive legislation that addresses combating delinquent debt in the Federal Government.

Basis for Agency Policies and Procedures (Continued)

The DCIA was passed by Congress on April 26, 1996, and contains provisions related to a variety of tools and procedures that are designed to collect delinquent debts owed to the Federal Government. These new provisions are included in the remainder of this chapter in the appropriate sections.

Roles and Responsibilities

The Financial Management Division (FMD). FMD is responsible for developing and implementing an effective debt management program for the Agency. This responsibility includes developing uniform policies and procedures in accordance with established authorities, providing liaison with the Department on proposed changes or new initiatives in the debt management area, and providing oversight of Agency debt management activities.

Minneapolis Financial Services Branch (MFSB). MFSB is responsible for ensuring that the established policies and procedures are implemented. This responsibility includes:

- ◆ Determining the credit-worthiness of potential customers and approving customers obtaining credit accounts;
- ◆ Providing guidance and assistance to field offices on debt management issues (for inquiries regarding customer credit, delinquent debts, or customer statements), call the Accounts Receivable Team;
- ◆ Ensuring collection of debts by providing the necessary follow up actions on delinquent debts resulting from billings initiated by APHIS;
- ◆ Suspending credit privileges when necessary for seriously delinquent accounts, placing customers on a cash-basis, and notifying field offices when debtors are placed on cash-on-demand (COD);
- ◆ Negotiating payment plans for delinquent debtors;

**Roles and Responsibilities
(Continued)**

- ◆ Referring to the Internal Revenue Service (IRS) for income tax offset; and
- ◆ Referring delinquent accounts as necessary to the Treasury Offset Program (TOP) for administrative offset, Department of Justice (DOJ) for litigation, and for write-off.

Field Offices. Each field office is responsible for implementing established procedures and seeking guidance from MFSB on unusual or unique situations which may occur. The field office will assist MFSB by providing current addresses, phone numbers, and other pertinent data on debtors as requested by MFSB. Field offices should not attempt collection of outstanding debts, unless requested by MFSB. See Exhibit 12-1 for a listing of field office responsibilities.

**Debt Management
Sequence of Events**

Debt management follows a logical path or series of events, beginning from the time we provide a service or good to some to the point when we determine that a debt is uncollectible and should be closed out. Following is a list of all possible steps that might be used for a debt that becomes seriously delinquent and that we ultimately determine to be uncollectible:

- ◆ We provide a service or sell goods to an individual, company, or State, local, or Federal Government. Also, we may realize that money is owed to us in the form of a claim when there is a default on a contract, an auto accident, a violation resulting in a civil penalty, or a like transaction. We obtain a taxpayer identification number (TIN), employer identification number (EIN), or social security number (SSN) from anyone we do business with, which will be used to collect and report any delinquent amounts that might arise;
- ◆ We establish an accounts receivable and issue a bill that states how much is owed, when it is due, and what the penalties are for not paying on time;

**Debt Management
Sequence of Events
(Continued)**

- ◆ If the debtor doesn't pay by the due date, we issue a series of demand letters with increasingly strong language. We also begin adding interest and penalties to the debt;
- ◆ We may request that the debtor pay COD for any future services until the delinquent debt is paid, and we may deny any future services to the debtor until he/she pays the delinquent debt;
- ◆ We report the delinquent debt to credit reporting bureaus so the debtor's credit history and rating will reflect that he/she is delinquent in paying the debt;
- ◆ We use a variety of methods available to collect the debt such as salary offset and wage garnishment;
- ◆ We refer delinquent debts to Treasury for administrative offset;
- ◆ We refer the debt to DOJ for litigation; and
- ◆ When we determine that the debt is uncollectible, we follow a two-step process by first writing off the debt, then closing out the debt and stopping all collection efforts.

The remainder of this chapter explains these debt management processes and tools in more detail.

**Accounts
Receivable**

When we provide services or goods to someone on credit, (i.e., allow them to pay when they receive a bill from us), we establish an accounts receivable in the accounting system of record. In fact, whenever we realize that we are owed cash or another type of asset, we will establish an accounts receivable. For example, if an employee receives and cashes two paychecks for the same pay period, NFC will establish an accounts receivable and issue a bill to that employee for the overpayment.

**Accounts
Receivable
(Continued)**

We use accounts receivable to recognize that we have performed a service or provided goods to someone, or that someone owes us for a claim, but that the actual payment will be received at a later date. By establishing accounts receivable, we are able to more accurately match revenue with obligations or expenses (within the same period of time) in our accounting records.

Accounts receivable are established by either NFC or MFSB, based on information provided by APHIS offices. (Chapter 10 contains information on the forms and procedures offices must use to report activities that will result in accounts receivable being established, and in bills being issued).

**Allowance for
Uncollectible
Amounts**

When we provide services or goods on credit, it is inevitable that we will be unable to collect all of the debts owed to us. In order to properly reflect our accounts receivable on the financial statements, we need to estimate how much of our accounts receivable we won't collect, and record that amount in an account called "allowance for uncollectible amounts". FMD will analyze all APHIS accounts and develop an estimate of the amount of debt we may not collect. Generally, this estimate is reviewed and revised annually, or when we receive information that indicates the estimate is no longer valid.

**Taxpayer
Identification
Number (TIN)**

APHIS is required by the DCIA to obtain a TIN from each person with whom we do business. A "person" is considered to be all entities, other than another Federal agency. This includes, but is not limited to, an applicant for, or recipient of, a Federal license and/or permit; a contractor or vendor; a State or local government; a school or university; an entity who has incurred a civil penalty; and anyone else in a relationship with APHIS that may give rise to a receivable due. A person paying cash would not have to furnish a TIN; but a person paying with a check would have to furnish a TIN, as a "bad check" could result in a receivable due to APHIS.

A TIN is an individual's social security number or a vendor's employer identification number (EIN). We must tell the person, at the time he/she provides his/her TIN, that the number will be used to collect and report any delinquent amounts arising from the person's relationship with APHIS.

**Taxpayer
Identification
Number (TIN)
(Continued)**

Treasury requires that we provide the payee's TIN with each request for payment sent to a Treasury Regional Finance Center (RFC). All APHIS check and electronic funds transfer (EFT) payments are made through an RFC, although the initial accounting event is processed through NFC and/or MFSB first.

**Delinquent
Accounts**

An agency must take timely, forceful, and persistent action to collect debts that become delinquent. The sooner agencies begin taking actions to collect delinquent debts; the more likely it is that the debt will be collected. Action should be taken to: 1) prevent unexplained or prolonged delays in collection, 2) prevent the occurrence of additional debts, and 3) identify potential causes for and clarify misunderstandings of the billing process.

There are a variety of actions an agency can take once debts become delinquent. The actions taken should be commensurate with the amount of the debt and the period of time the debt has been delinquent.

Generally, APHIS will:

- ◆ Issue written demand notices to the debtor which informs the debtor of the consequences of not paying the debt (a minimum of three written demands progressively stronger worded at not more than 30-day intervals will be submitted to the debtor);
- ◆ Initiate telephone contact with the delinquent debtor to discuss any problem the debtor may have which resulted in nonpayment; and
- ◆ Conduct personal interviews with the debtor, whenever this is feasible, depending upon the amount involved and the proximity of the Agency representative to such debtor, to discuss the delinquent debt and reasons for nonpayment by the specified date.

**Delinquent
Accounts
(Continued)**

The determination for the course of action to be taken on each delinquent account should be based on sound judgment in balancing the Agency's interest in collecting the debt and fairness to the debtor.

Demand Notices

NFC issues the following demand notices to delinquent debtors for the billings that are processed through FFIS.

- ◆ First reminder. When the prior month's bill has not been paid within 30 days of when the bill was printed, a past due notice is issued notifying the debtor that payment is past due and that the account is subject to interest and penalties.
- ◆ Second reminder, 15 days delinquent (or 75 days after the original billing date). ART contacts customers (usually via phone) informing them the status of their account and potential future action if account is not paid before the next billing date.
- ◆ Third reminder, 30 days delinquent. NFC issues a delinquency notice when the bill is 60 days old (or 90 days after the original billing date).
- ◆ Fourth and final reminder, 60 days delinquent. MFSB-ART issues a delinquency notice when the bill is 90 days old (or 120 days after the original billing date).

After the final delinquency notice is mailed, NFC will continue to bill and charge a late penalty on the past due amount.

Interest

Regulations regarding charging interest state that agencies will charge a minimum annual rate of interest equal to the Treasury Current Value of Funds rate. The amount of interest applied will be shown on each billing statement.

**Interest
(Continued)**

Interest will be applied on a monthly basis, beginning on the first day the debt becomes delinquent, and for each month the account remains delinquent and will be separately identified on the billing statement. Interest will be applied to all delinquent debts, except those owed by other U.S. Government agencies, unless expressly prohibited by U.S. statute.

- ◆ Interest will be waived on a debt or portion thereof determined to be caused through administrative error.
- ◆ Interest will be waived on the debt which is paid within 30 days after the date on which interest began to accrue, at the request of the debtor.

**Late Payment
Penalties**

A penalty of 6 percent per annum will be applied to all delinquent accounts, exclusive of interest, when the debt becomes 90 days delinquent. Late payment penalties will not be applied to debts of other U.S. Government agencies or to debts expressly prohibited by U.S. statute.

**Administrative
Costs**

Administrative costs will be applied to all delinquent accounts, exclusive of interest and penalties, when the debt becomes 90 days delinquent. The administrative cost applied will be the actual additional administrative costs incurred in servicing the delinquent debt. These costs include, but are not limited to, salary and benefits, cost of obtaining a credit report, use of a private collection agency, additional telephone costs, mail costs, and other costs that can be specifically identified to servicing the delinquent account.

**Debt Management
Reports**

The debt management reports will be used by MFSB to determine the accounts that are delinquent and the length of delinquency. The reports will be used as the basis for: 1) beginning follow up actions, 2) placing a debtor on the COD listing, and 3) denial of future services.

Collection Actions

All services or goods provided by APHIS are due and expected to be paid in full by the due date indicated on the billing statement.

**Collection Actions
(Continued)**

Whenever feasible, collection action should recover the full amount of the debt including interest, penalties, and administrative costs applied in one lump sum. The full amount should be collected regardless of the collection method including voluntary payment, administrative offset, or another method. However, when the debtor is financially unable to pay the indebtedness in one lump sum, payment may be accepted in regular installments. All installment agreements or compromises of the original debt will be handled by an agreed to by MFSB in accordance with the following:

Negotiating Installment Payments. All requests for installment payments must be supported by financial statements from the debtor showing he/she is financially unable to pay the indebtedness in one lump sum. A legally enforceable written agreement which specifies all of the terms of the installment arrangement and contains a provision accelerating the debt payment in the event the debtor defaults must be obtained from and signed by the debtor. The size and frequency of the installment payments should bear a reasonable relationship to the size of the debt and the debtor's ability to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the debt in no more than 3 years. Generally, MFSB structures payment plans that liquidate the debt within 1 year.

Compromise of Debts. All compromises of debts owed APHIS will be handled by MFSB in accordance with the provisions established in 4 CFR 103.

Cash on Demand (COD). If customers fail to pay their debts to APHIS, we have the ability to suspend their credit privileges and place them on a cash basis or COD. Specific provisions related to when and how we handle COD is contained in 9 CFR 130.51 and repeated below:

**Collection Actions
(Continued)**

- ◆ Payment must be made for subsequent user fees before service is provided if:

- 1) For unbilled fees, the user fee is unpaid 60 days after the date the pertinent regulatory provision indicates payment is due;
- 2) For billed fees, the user fee is unpaid 60 days after date of bill;
- 3) The person requesting the service has not paid the late payment penalty or interest on any delinquent APHIS user fee; or
- 4) Payment has been dishonored;

- ◆ APHIS will estimate the user fee to be paid; any difference between the estimate and the actual amount owed to APHIS will be resolved as soon as reasonably possible following the delivery of the service, with APHIS returning any excess to the payor or billing the payor for the amount due;
- ◆ The prepayment must be in guaranteed form, such as money order, certified check, or cash. Prepayment in guaranteed form will continue until the debtor pays the delinquent debt;
- ◆ Cash payments will be accepted only at a location designated by the APHIS employee during normal business hours.

Denial of Services. If debtors still do not pay their delinquent debts, APHIS has the authority to deny services to the debtor. APHIS will deny service until the debt is paid if:

- ◆ For unbilled fees, the user fee is unpaid 90 days after the date the pertinent regulatory provision indicates the payment is due;

**Collection Actions
(Continued)**

- ◆ For billed fees, the user fee is unpaid 90 days after the date of the bill;
- ◆ The person requesting the service has not paid the late payment penalty or interest on any delinquent APHIS user fee, or
- ◆ Payment has been dishonored.

In some cases, APHIS may be in the process of providing a service and will have other recourse for collecting bad debts. APHIS may take the following additional actions:

- ◆ If an APHIS user fee is due for animals or birds in quarantine at an Animal Import Center or at a privately-operated import-quarantine facility, APHIS will not release them;
- ◆ If an APHIS user fee is due for an export health certificate, APHIS will not release the certificate;
- ◆ If a user fee is due for a test conducted by APHIS, APHIS will not release the test result or any endorsed certificate; and
- ◆ If a user fee is due for a diagnostic reagent, slide set, tissue set, or sterilization by gamma radiation, APHIS will not release these items.

The determination to return the debtor to a billing basis or to retain the debtor on a COD basis for a period of time will be made by MFSB. MFSB will communicate the decision to the debtor and the Agency field office. If the debtor is returned to a billing basis, MFSB will maintain close watch on the status of all debts incurred. If new reimbursable services provided become delinquent, MFSB, at its option, will return the debtor to a COD basis or deny future reimbursable services to the debtor.

**Collection Actions
(Continued)**

Credit Reports. When an account becomes seriously delinquent, 90 days or more, MFSB can request a credit report from Dun and Bradstreet, Inc. The credit report will be used to determine the financial status of the debtor and the debtor's ability to repay the debt. The credit report will become a part of the file maintained by MFSB on follow up activities.

Credit Reporting Bureaus. The DCIA allows agencies to report current debtors to credit bureaus, if a system of records notice has been published to notify of the disclosure. This action may be appropriate for those USDA agencies that exist to make loans to the public. However, APHIS does not conduct the type of collection activity that lends itself to non-delinquent debt reporting, and we will report delinquent debts only, as required. According to the DCIA, all commercial delinquent debts will be reported to credit reporting bureaus by NFC on the first day the debt becomes delinquent. Commercial debts will continue to be reported each month they remain delinquent. Consumer debts will be reported in accordance with the reporting provisions of the Privacy Act, which states that we must provide the consumer debtor with a "notice of intent" 60 days prior to reporting the debt. (Commercial debtors are not covered by the Privacy Act).

Cross-Servicing. APHIS must send all debts over 180 days delinquent to Treasury for cross-servicing; with DOJ in foreclosure, litigation, or appeal, or in any other legal situation that would prohibit other collection efforts; at a debt collection center; in an internal offset program to be collected within 3 years; or a specific class of debt that has been excluded by the Secretary of the Treasury at the request of the Secretary of Agriculture.

When debts are sent for cross-servicing, APHIS' collection efforts related to those debts will end; however, the debts will remain in APHIS' general ledger and subsidiary receivable system.

Treasury will charge a percentage of the amount collected; however, APHIS may request the fee or other administrative charges be added to the debt before collection.

**Collection Actions
(Continued)**

Treasury Offset Program (TOP). APHIS is required by the DCIA to send all debts, over 180 days delinquent, to Treasury for administrative offset. APHIS may continue to “work” the debt after sending it for administrative offset, and the receivable (or debt) will remain in APHIS’ general ledger and subsidiary receivable system as we will be required to continue to report on the debt in our standard financial reports.

Administrative offset is the process of withholding funds payable to a person to satisfy a debt owed by that person to the Federal Government. We can send debts, under 180 days delinquent, to Treasury for offset as well; but we must ensure that we have followed proper collection procedures before referring the debt.

Treasury will match the payments and delinquent debts on TIN and debtor/payee name. We must provide Treasury with TIN’s and debtor names when sending debts for offset. We also must certify that 3 demand notices have been sent to each debtor at the last known address prior to sending it for offset.

The types of debts that qualify for administrative offset are: any amount APHIS is authorized by statutes to collect; overpayments, including payments disallowed by audits and overpayments of grants; fines or penalties assessed by APHIS; the unpaid share of any non-federal partner (e.g., States or local governments) in a program involving APHIS and a matching or cost-sharing payment by a non-federal partner; and other amounts of money or property owed to APHIS. Foreign debts are usually excluded from administrative offset, unless the foreign entity operates in the United States, as it will be difficult to perform effective administrative offset without a TIN.

The types of payments that can be used to offset a debt are: federal wage, salary, travel expense reimbursement, and retirement payments; vendor payments; tax refund payments;

**Collection Actions
(Continued)**

cooperative reimbursement payments; Social Security, Black Lung Benefits, and Railroad Retirement pension payments, after the payee has received at least \$9,000 annually; and credit card payments.

APHIS must notify the debtor within a “reasonable time” before sending the debt for offset. Treasury recommends we include a statement on our invoices or demand notices which tell our debtors about automatic offset referral of all delinquent debts, to comply with the “reasonable notification requirement”.

Treasury will charge a standard fee for each debt collected by offset. The fee will be per each offset, and we can add the fee to the debt owed to us. For example, if the fee is \$7, and Jones Company owes \$100 to APHIS, APHIS should ask Treasury to collect \$107 from a federal payment owed to Jones Company. We will receive the offset amount less the standard fee from Treasury via the Intra-Governmental Payment and Collection System.

Treasury processes offset collections in the following priority order (1) tax debt; (2) child support – the DCIA directs Treasury to collect child support payments by offset; (3) oldest debt first. Any monies due the Agency for the performance of services or goods provided by agreement, except to another Federal agency or a subdivision of a State or local government, is subject to collection by administrative offset under the provisions of the Federal Claims Collection Act of 1996, as amended by the Debt Collection Act of 1982, and the Spending Reduction Act of 1984.

Salary Offset. APHIS is required to participate, at least annually, in a computer match of our delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of debts owed to APHIS. The salaries of those employees are offset to repay the amount owed to APHIS, in accordance with salary offset regulations.

**Collection Actions
(Continued)**

Offsets Within APHIS. MFSB is delegated the authority to liquidate, in whole or in part, any outstanding debt due APHIS from current or future payments due the debtor from APHIS funds.

Wage Garnishment. The DCIA allows agencies to garnish the wage of anyone who is employed and owes the Government. The garnishment must be limited to 15 percent of disposable pay. Disposable pay is the amount left after deductions required by statute are withheld. For example, Federal tax withholding is required by law; health insurance withholding is not required by law; therefore, the gross pay would be reduced by the amount withheld for Federal tax to determine the disposable pay.

The debtor must be employed for more than 1 year before his/her pay can be garnished. The debtor must be notified 30 days prior to garnishment and is entitled to a hearing prior to garnishment if he/she requests one within 15 days after the mailing of the notice.

Referrals for Litigation. MFSB has the option of referring delinquent debts to DOJ when there is a question of legality or the debtor has the ability to pay but refuses. Delinquent accounts may be referred when there is a doubt as to whether collection action should be suspended or terminated. Each case submitted must be supported by documentation which outlines all steps taken by the Agency to effect collection. In addition, MFSB will prepare a Claims Collection Litigation Report on all administratively uncollectible debts submitted to DOJ.

**Termination of
Collection Actions**

If it becomes apparent that an Agency will not be able to collect a delinquent debt, there is a series of steps we will take to terminate collection action. The Director, FMD, has the authority to suspend, terminate, write-off, or compromise debts that do not exceed \$100,000 (exclusive of interest). FMD must refer any debts greater than \$100,000 to the Office of the General Counsel for referral to DOJ.

**Termination of
Collection Actions
(Continued)**

FMD has re-delegated authority to the Director, MFSB, to suspend, terminate, write-off, or compromise debts that do not exceed \$20,000 (exclusive of interest).

Suspension or Delay of Collection Actions. Collection actions may be suspended or delayed when the following conditions occur:

- ◆ The debtor cannot be located after diligent efforts and there is reason to believe that future collection actions may be productive to justify periodic review and action on the debt. Consideration must be given to the size of the debt and the potential collection to be realized.
- ◆ The debtor owns no substantial personal or real property and is unable to make payments on the debt or affect a compromise at the time, but the debtor's future prospects justify retention of the claim for periodic review and action.
- ◆ The debtor requests an administrative review or waiver of the debt. Collection actions may be suspended, pending Agency action on the waiver/review request, based upon appropriate consideration of the facts leading to the delinquency on a case-by-case basis.

Writing Off and Closing Out Delinquent Debts. The processes of writing off and closing out debts are closely tied, but they are distinct processes from an accounting perspective. To write off a debt means we will remove an uncollectible debt from our accounts receivable. To close out a debt means we will stop collection activities on an uncollectible debt.

For example, we might write off a debt owed to us by an individual who imports animals into the United States after we exhaust all debt collection actions on the debt and still can't collect.

**Termination of
Collection Actions
(Continued)**

However, we might not choose to close out that debt entirely, because if the importer hopes to ever use APHIS' services for importing animals in the future, he/she would need to pay the delinquent debt.

Before discharging (e.g., suspending, terminating, writing off, or compromising) any delinquent debt, APHIS must take all appropriate steps to collect the debt, including administrative offset, tax refund offset, federal salary offset, referral to private collection contractors, referral to agencies operating debt collection centers, reporting to credit bureaus, garnishing wages of delinquent debtors, and litigation.

- ◆ Debts of \$100,000 or Less. The determination to write off a delinquent account will be made when the following conditions exist:

1. A judgment has been obtained against the debtor and has failed to produce full or partial collection.
2. Collection costs are estimated to exceed the amount recoverable.
3. Evidence exists that the debtor has no future ability to pay.
4. The Agency is unable to locate the debtor.
5. The statute of limitations has expired (i.e., 10 years) or the statutes of the State in which the debtor resides preclude collection.
6. The debt cannot be substantiated or is legally without merit.

- ◆ Debts Greater Than \$100,000. APHIS must refer all requests to compromise, suspend, terminate, or write-off debts in excess of \$100,000, exclusive of interest, penalties, and administrative costs to the Office of the General Counsel for referral to DOJ.

**Termination of
Collection Actions
(Continued)**

MFSB will submit all such requests to the Director, FMD, accompanied by a Claims Collection Litigation Report prepared in accordance with 4 CFR 105.2(b).

The decision to write off any debts, regardless of the amount, rests with the Agency. If there is a reasonable expectation that an uncollectible debt or claim may become collectible in the future, the debt may be written off, but must be maintained in the administrative records of the Agency to pursue future collection activity. These debts or claims should not be closed out.

When the Agency determines that written-off debts are uncollectible, the debt will be closed out and removed from the active files. However, collection action can always be reinstated on closed-out accounts if the agency discovers subsequent evidence that a debtor has new ability to repay or the debtor volunteers to repay the debt.

Reporting Written-Off Debts to the IRS. APHIS must report any debts that we write off to the IRS using Form 1099G, Report of Miscellaneous Income. Treasury may file Form 1099G on behalf of an agency when cross-servicing an agency's delinquent debt and any portion of the debt is forgiven or written off. Reporting written-off debt to the IRS has the effect of reporting the amount of the debts as income to the debtor. Consequently, the IRS will require the debtor to pay taxes on that "income".

- ◆ Report Procedures. Accounts written off for individuals, partnerships, and sole proprietorships will be maintained on an IRS referral log by MFSB. Each account written off, regardless of the dollar value, will be recorded with the debtor identifying information, accumulated for the calendar year, and reported to the IRS in January of the following year on IRS Form 1099G.
- ◆ Exemptions to Reporting. IRS Form 1099G will not be prepared in the following situations: 1) the account has been discharged in a Chapter 7, 11, or 13 bankruptcy case, or 2) the debtor is known to be insolvent.

